

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 JOHN TURNER,

2:14-cv-00384-GMN-VCF

4 *Plaintiff,*

ORDER

5
6 vs.

7 SOUTHERN DESERT CORRECTIONAL
8 CENTER, *et al.*,

9 *Defendants.*

10
11 This closed prisoner civil rights action comes before the Court following upon plaintiff's
12 filing of a notice of appeal for consideration of certification as to whether the appeal is taken
13 in good faith. The Court notes that plaintiff has not been granted pauper status in this matter.

14 With deference to the authority of the Court of Appeals with regard to matters
15 concerning its own jurisdiction, the notice of appeal is untimely as to all prior orders in this
16 action. The notice of appeal is dated July 9, 2014,¹ such that the appeal was constructively filed
17 more than 30 days after entry of all prior orders herein.

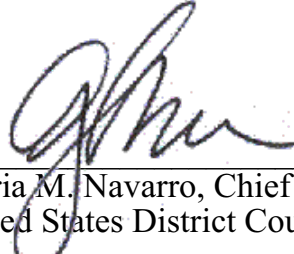
18 The appeal in any event would be dismissed if filed by a non-indigent litigant. The Court
19 dismissed the improperly-commenced action without prejudice with an express finding that a
20 dismissal without prejudice would not lead to a promptly-filed new action being untimely or
21 otherwise result in substantial prejudice. The Court thereafter denied plaintiff's motions that
22 were constructively filed prior to entry of judgment but not received and filed until after entry
23 of judgment. The Court reviewed the filings and expressly determined that the filings would
24 not have caused the Court to reach a different conclusion with regard to the dismissal without
25 prejudice.

26
27
28 ¹The notice apparently was sent to at least one other court, the Supreme Court of Nevada, prior to
being forwarded to this Court.

1 Even if there were any *arguendo* error in the prior dismissal and subsequent order, under
2 Rule 61, "[a]t every stage of the proceeding, the court must disregard all errors and defects that
3 do not affect any party's substantial rights." Having to pursue an action under one docket
4 number rather than another does not affect a party's substantial rights.

5 **IT THEREFORE IS ORDERED**, pursuant to 28 U.S.C. § 1915(a)(3), that the Court
6 certifies to the Court of Appeals that the appeal is not taken in good faith. The Clerk shall
7 forward a notice of electronic filing to the Court of Appeals with regard to this order as per the
8 Clerk's current practice for such matters.

9 **DATED** this 8th day of August, 2014.

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28


Gloria M. Navarro, Chief Judge
United States District Court